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ATTORNEYS AT LAW

CANAL SQUARE 1054 THIRTY-FIRST STREET, NW WASHINGTON, DC 20007-4492
TELEPHONE: 202/342-5200 FACSIMILE: 202/342-5219

RICHARD BAR
BRENDAN COLLINS
STEVEN JOHN FELLMAN
EDWARD D. GREENBERG
KATHARINE FOSTER MEYER
DAVID K. MONROE
TROY A. ROLF
DAVID P. STREET
KEITH G. SWIRSKY
THOMAS W. WILCOX

BRIAN J. HEISMAN
JASON SETTY

ROBERT N. KHARASCH **

MINNESOTA OFFICE
700 TWELVE OAKS CENTER DRIVE, SUITE 204
WAYZATA, MN 55391
(T) 952/449-8817 (F) 952/449-0614

WRITER'S DIRECT E-MAIL ADDRESS
TWILCOX@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
202-342-5248

** OF COUNSEL

May 19, 2010

BY E-FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings

MAY 19 2010

Part of
Public Record

**Re: STB Docket NOR 42114, U.S. Magnesium, LLC v. Union Pacific
Railroad Company**

Dear Ms. Brown:

Attached for e-filing in the referenced docket is a Public Version and a Confidential Version of the Statement of Reparations.

Thank you for your assistance. Please contact me if you have any questions.

Very truly yours,

Thomas W. Wilcox
Counsel for U.S. Magnesium, LLC

Enclosure

cc: Michael L. Rosenthal, Esq. (counsel for Defendant)
Louise A. Rinn, Esq. (counsel for Defendant)

U.S. MAGNESIUM, LLC

Complainant,

v.

UNION PACIFIC RAILROAD COMPANY

Defendant.

Docket No. NOR 42114

In its Decision served in this proceeding on January 28, 2010 (“Decision”), the Board found that the rates charged by Defendant Union Pacific Railroad Company (“UP”) for the transportation of chlorine from complainant U.S. Magnesium LLC’s (“USM”) magnesium production facility in Rowley, Utah to USM’s customers in Eloy and Sahuarita, Arizona exceeded maximum reasonable levels. The Board directed UP to (1) establish and maintain rates to these destinations at no higher than 356% and 346%, respectively of the UP’s variable costs of providing this service as calculated pursuant to the Board’s rules and procedures, and (2) pay reparations to USM, plus applicable interest, for shipments made under the challenged rates “moving after the expiration of contract between the parties and prior to the establishment of the reasonable rates pursuant to paragraph 3” of the Decision. *See* Decision at 21.

Effective March 29, 2010, UP established new rates in compliance with the Decision. USM and UP have cooperated to identify the traffic entitled to reparations for the shipments of chlorine between March 6, 2009, when shipments began under the challenged rates, and March 29, 2010, and have agreed upon the calculated reparations and interest thereon in compliance with 49 C.F.R. § 1133.2.

In accordance with the applicable regulations, the parties are submitting a statement of reparations for all chlorine shipments from Rowley to Eloy and Sahuarita under the challenged rates between March 6, 2009 and March 29, 2010. The reparations and interest as calculated by the parties for this time period total \$257,583.85 through the date of payment, which was May 17, 2010. The calculations of reparations and interest are summarized in Attachment No. 1 hereto.

Attachment No. 2 hereto is the certification required by 49 C.F.R. §1133.2.

Respectfully submitted,



J. Michael Hemmer
Louise A. Rinn
Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179
(402) 544-3309

Michael L. Rosenthal, Esq.
Covington & Burlington LLP
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 662-6000

*Attorneys for Union Pacific Railroad
Company*

Dated May 19, 2010



Thomas W. Wilcox
Jason M. Setty
GKG Law, P.C.
1054 Thirty-First Street, NW
Suite 200
Washington, DC 20007
(202) 342-5248

Attorneys for U.S. Magnesium, LLC

Attachment No. 1 Redacted

Attachment No. 2

CERTIFICATION

Complainant U.S Magnesium, LLC ("USM") hereby certifies that the accompanying Reparations Statement includes claims only on shipments covered by the Surface Transportation Board's findings in STB Docket NOR 42114 between March 6, 2009 and March 29, 2010, contains no claim for reparations previously filed with the Board by or on behalf of USM or, so far as USM knows, by or on behalf of any person, in any proceeding.

On May 17, 2010 USM received UP's payment of \$257,583.85 described in the certification provided by UP below in satisfaction of the reparations and interest award set out in the January 28, 2010 Decision in Docket NOR 42114 for USM's chlorine shipments moving after the expiration date of the contract between the parties and prior to the establishment by UP of reasonable rates pursuant to the Decision effective March 29, 2010.



U.S. Magnesium, LLC

By: Howard I. Kaplan
238 North 2200 West
Salt Lake City, Utah 84116

May 19, 2010

The total amount of reparations and interest for chlorine shipments by UP from USM's Rowley, Utah to Eloy and Sahuarita, Arizona between March 6, 2009 and March 29, 2010, including interest through the date of payment on May 17, 2010, equals \$257,583.85. The undersigned hereby certifies that the Reparations Statement submitted by USM for shipments between March 6, 2009 and March 29, 2010 has been checked against the records of Union Pacific Railroad Company and found correct.


Union Pacific Railroad Company,
Defendant

By: Jeffrey Totusek
Vice President – Controller and Chief Accounting Officer
Union Pacific Railroad Company
1400 Douglas Street, STOP 1770
Omaha, Nebraska 68719

May 14, 2010